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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,296	03/01/2002	Anil Seth	1488.008US1	2127

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
121 S. 8TH STREET
SUITE 1600
MINNEAPOLIS, MN 55402

EXAMINER

ROMANO, JOHN J

ART UNIT PAPER NUMBER

2192

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/087,296

Applicant(s)

SETH ET AL.

Examiner

John J. Romano

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-44.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: See attached detailed action.

Chameli C Das
CHAMELI C. DAS
PRIMARY EXAMINER

4/3/06

DETAILED ACTION

Remarks

1. Applicants' arguments dated December 27th, 2005, responding to the October 20th, 2005 Office action provided in the rejection of claims 144, wherein claims 1-44, remain pending in the application and which have been fully considered by the examiner.
2. Applicant's arguments filed December 27th, 2005, primarily on pages 14-17, have been fully considered but they are not persuasive. For example,

103 Rejection of the Claims

(A) In response to applicant's argument that there is no suggestion to combine the references, (page 14 of the response, third paragraph), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references are reasonably pertinent to the particular problem of energy conservation. *Bartley* discloses "...apart from energy conservation, power efficiency is a concern for battery-operated processor-based equipment..." (Column 1, lines 20-22). While, *Li* teaches "Energy efficiency is a hot topic in embedded system design. As mobile computing systems (e.g. cellular phones, laptop computers, video cams, etc.) become more popular, how to length the battery life of these systems becomes

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a critical issue” (Page 1, lefthand column, under Introduction, first full paragraph). Thus, the examiner maintains the position that **Bartley** and **Li** are reasonably pertinent to the particular problem with which the applicant was concerned, namely energy conservation.

(B) In response to Applicant’s argument regarding inherency pertaining to Bartley (page 14, third and fourth paragraph of the response), the Examiner respectfully disagrees. As a preliminary note, the Examiner would like to clarify the statement in the preceding Office Action, mailed October 20th, 2005. The Office Action stated: “Bartley discloses “These segments would be of longer duration than some predetermined threshold” (Column 7, lines 42-43), wherein the threshold inherently must be predetermined or user specified.”. In this case, the Examiner is interpreting “predetermined threshold” to read on “user specified”. The Examiner did not intend to communicate user specified as an alternate, as interpreted by Applicant. Accordingly, as a predetermined threshold would have to be specified by a user (via user input or program written by user, etc.), it is necessary that a user provides specification of some form, and therefore based on fact. Thus, the above quote disclosed by Bartley is the basis of fact used for the inherent rationale as previously provided by Examiner.

(C) In regard to arguments that the threshold of Bartley is not user specified (page 15, first paragraph, response), the Examiner respectfully disagrees. Applicant bases this conclusion on Bartleys’ disclosure that “Various power modeling techniques can be used to determine the length of time during which it is more efficient to turn a component off (or partially off) then on again versus leaving it on.” Examiner’s interpretation is that modeling techniques would necessarily have to be provided by a user in order to be functional and therefore discloses user specified.

(D) In regard to Applicant's argument pertaining to "real-time constraints" (page 15, first paragraph), the Examiner respectfully disagrees. Bartley discloses dynamic program analysis (E.g., see column 7, lines 47-49), which implies real-time constraints.

Remaining Claims

(E) Accordingly, the remaining arguments depend from and/or recite features similar to those discussed above with respect to the limitations addressed in sections (A) – (D), and therefore the rejections are maintained as addressed above.